
SECTION 9 ADMINISTRATION

9-A ENFORCEMENT/BUILDING PERMIT

The Building Inspector shall execute the provisions of this by-law, except where otherwise provided, and in so doing, shall have the same powers as are provided for the execution of Chapter 40-A of the General Laws of the Commonwealth of Massachusetts. He shall issue no building permit for the construction of any building or structure which would be in violation of any of the provisions of this by-law. Where a Special Permit from the Zoning Board of Appeals or the Planning Board, as the case may be, is required pursuant to the provisions of this by-law, or where an appeal or petition involving a variance is pending, the Building Inspector shall issue no building permit until so directed by said Board.

Any application for such a permit shall be accompanied by a plan, accurately drawn, showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings to be constructed, together with the lines within which all buildings and structures are to be erected, the existing and intended use of each building or structure, and such other information as may be necessary to provide for the execution and enforcement of this by-law.

If the Building Inspector shall be informed or have reason to believe that any provisions of this by-law or any permit or decision thereunder has been, is being, or is about to be violated, he shall make or cause to be made an investigation of the facts, including the inspection of the premises where the violations may exist; and if he finds any violations, he shall give immediate notice in writing to the owner or his duly authorized agent and to the occupant of the premises.

If, after such notice, such violation continues, with respect to any building, structure, or use contrary to the provisions of this by-law or a decision of the Zoning Board of Appeals or the Planning Board, as the case may be, the Building Inspector shall forthwith revoke any permit issued in connection with the premises and shall take such other action as is necessary to enforce the provisions of this by-law.

Construction or operations under a building or special permit shall conform to any subsequent amendment of this by-law unless the use or construction authorized by the permit is commenced within a period of not more than six (6) months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

9-B CERTIFICATE OF OCCUPANCY

It shall be unlawful to reduce the open spaces on any lot or to initially occupy or use, in whole or in part, for any purposes whatsoever, or change the use of any building or structure until a certificate of occupancy shall have been issued by the Building Inspector stating that the premises and building comply with all the provisions of the statutes and applicable by-laws of the Town of Walpole. Any use for which a certificate of occupancy has been issued shall not be changed until a new certificate of occupancy is issued covering such use. A certificate of occupancy shall be granted or denied within ten (10) days from the date of receipt of written application,

9-C OTHER REGULATIONS

The provisions of this by-law shall be construed as being additional to and not as annulling, limiting or lessening to any extent whatsoever the requirements of any other by-law, rule or regulations, provided that, unless specifically excepted, where this by-law is more stringent it shall control.

9-D PENALTY

- (1) Any person, firm or corporation violating any section of this by-law shall be fined not more than three hundred dollars (\$300.00) for each offense as provided in G.L., Chapter 40-A. Each day that such violation continues shall constitute a separate offense.
- (2) In addition to the procedures for enforcement as described above, the provisions of this zoning by-law may also be enforced by the Building Inspector/Zoning Enforcement Officer by non-criminal complaint pursuant to the provisions of Massachusetts General Laws Chapter 40, Section 21D. The penalty for a violation of any provision of this by-law shall be \$300.00 for each offense. Each day that such violation continues shall constitute a separate offense.

9-E VALIDITY

The invalidity of any section or provision of this by-law shall not invalidate any other section or provision hereof.

9-F AMENDMENTS

These by-laws, including the zoning district map which is a part hereof, may be amended at a regular or special town meeting in accordance with Chapter 40-A, of the General Laws. An amendment may be initiated by submitting a proposed change to the Board of Selectmen by any of the following: the Board of Selectmen, the Zoning Board of Appeals; an individual owning land in the Town to be affected by the amendment; registered voters of the Town pursuant to M.G.L., Chapter 39, Section 10; the Planning Board; and the Metropolitan Area Planning Council. Within fourteen (14) days of receipt of the proposed change, the Board of Selectmen shall submit it to the Planning Board for review, a public hearing, and a report. Any petition for amendment shall be accompanied by the following:

- (1) For petitions concerning the text of these regulations, five (5) copies of the existing and proposed text shall be submitted;
- (2) For petitions concerning the zoning district map, two (2) copies of a map drawn to a scale of not less than two hundred (200) feet to the inch, for any area less than 50 acres, and not less than five hundred (500) feet to the inch for any area 50 acres or greater covering the area of the proposed change and all area in the Town within three hundred (300) feet of the proposed change, and showing for such area the existing and proposed zoning district boundary lines, the existing property lines, and the names of the current property owners as indicated in the Walpole Assessor's records.
- (3) Notice of the public hearing before the Planning Board on the proposed amendment shall be published in accordance with M.G.L., Chapter 40A, Section 5 by advertisement in a newspaper of general circulation in the Town of Walpole. For proposed amendments concerning the zoning district map, notice of said public hearing shall also be sent by mail to the current owners of property in Walpole within the area of the proposed change, and for direct abutters for owners of property outside Walpole and within three hundred (300) feet of the proposed change. Such notices shall include a description of the subject matter sufficient for identification and shall specify the time and place of the public hearing and the location where texts and maps describing the proposed amendment may be inspected.
- (4) No proposed change in this by-law which has been unfavorably acted upon by the Town Meeting shall be considered by the Town Meeting within two (2) years after the date of such unfavorable action, unless adoption of the proposed change is recommended in the final report of the Planning Board to the Town Meeting.

9-G EFFECTIVE DATE

An amendment to this by-law shall take effect on the date which such amendment was adopted by a favorable two-thirds (2/3) vote of Town Meeting, subject to the publications requirements as provided in M.G.L. Chapter 40A, Section 5, except such amendment shall apply to any change or substantial extension of such use to a building or Special Permit issued after the first notice of said public hearing on said amendment.

9-H RATE OF MULTI-FAMILY DEVELOPMENT BY-LAW

(1) Purpose

The purpose of the Rate of Development Program is to allow the Town to provide, in a planned and rational manner, the basic facilities necessary for health, safety and welfare and to adequately support its existing and future population, through the adoption of standards which will coordinate residential growth with the provisions of community facilities. The Town recognizes its obligation to provide its share of the regional need for housing of all types and to manage, not prohibit growth. The Rates of Development shall be considered together with present and future plans (such as the Master Plan, official maps, growth management plan) and the town By-Laws in order to:

- (a) Provide for the most compact, efficient and cost effective Town services by means of long-range planning;
- (b) Protect and enhance the character of the community and its historical and natural resources;
- (c) Discourage rapid rise in service costs which will cause hardship, especially to persons of limited income who live, or may come to live, in the community;
- (d) Carry out the purposes of the Zoning Act, which empowers municipalities to "facilitate the adequate provision of transportation, water, sewerage, schools, parks and other requirements", to conserve natural resources, and to "encourage the most appropriate use of land" throughout the community;
- (e) Provide a degree of predictability as to the location and speed of residential growth as to enable comprehensive fiscal, governmental and land-use planning.

(2) Procedure

This section shall take effect only when and if the Building Inspector determines that fifty (50) multi-family dwelling units, excluding single family houses, have been authorized by permit town wide within a twelve (12) month period.

(3) Issuance of Permits

The Building Inspector shall issue building permits for construction of new multi-family dwelling units only if permit issuance will not result in authorizing construction within a 12-month period of more than 50 multi-family units, excluding single family houses, town wide, within a 12-month period, but no building permit shall be issued to any applicant authorizing the construction of more than five (5), multi-family dwelling units in any 12-month period by that applicant. For the purpose of this section, "Applicants" is defined as individuals, partnerships, corporations, trusts or other legal entities in which the applicant of record holds a legal or beneficial ownership greater than one percent.

(4) Exemptions

The following are exempt from the provisions of this By-Law:

- (a) Lots created by a subdivision plan as defined by M.G.L., Ch. 41, S 81-L, endorsed by the Planning Board prior to the effective date of this by-law.
- (b) Lots created by a plan not requiring Planning Board approval as defined by M.G.L., Ch. 41, S 81-L and 81-P not previously created by a subdivision plan as defined by M.G.L., Ch. 41, S 81-L endorsed by the Planning Board prior to the effective date of this by-law.
- (c) Units designed for low or moderate income residents of all ages receiving or eligible to receive state or federal subsidies.
- (d) Building permits for extensions, alterations or modifications of pre-existing structures.

9-I SUBDIVISION PHASING

(1) Purpose

The purpose of this section of the Zoning By-Law is to allow the Town to provide, in a planned and rational manner, the basic facilities necessary for the health, safety, and welfare of its citizens, and to adequately support Walpole's existing and future population, through the adoption of design criteria which will coordinate residential growth with the provision of community services and the preservation of community character. This section of the Zoning By-Law shall be considered together with the Master Plan Update of 1985; the Water Master Plan of 1989; the Open Space Plan of 1987; the 201 Facilities Plan of 1981; and Metro Plan 2000 prepared by the Metropolitan Area Planning Council in order to:

- (a) Carry out the purposes of the Zoning Act, which empowers municipalities to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements, and to encourage the most appropriate use of land throughout the community;
- (b) Protect and enhance the character of the community and its historical and natural resources,

- (c) Ensure that the rate of single-family residential development does not overly burden the fiscal capacity of the Town to absorb the costs of incremental service demands in light of the fiscal constraints imposed on the Town by Proposition 2 1/2. To this end, § 9-I will help to:
 - (1) Provide a degree of predictability as to the location and speed of residential growth,
 - (2) Provide for the most compact, efficient, and cost effective municipal services; and
 - (3) Discourage rapid rise in service costs which will cause hardship, especially to persons of limited income who live, or may come to live, in the community.

(2) Definitions

Unless otherwise noted within § 9-I, the following terms shall have the following meanings:

DEVELOPMENT - the entire tract of land which is the subject, in whole or in part, of:

- (1) a definitive subdivision plan submitted to the Planning Board for approval under M.G.L. c. 41 § 81-U; or
- (2) a plan submitted to the Planning Board for endorsement under the provisions of M.G.L. c. 41 § 81-P that approval under the subdivision control law is not required ("Approval Not Required" plan, or "ANR" plan), or
- (3) a combination of the two plans described under (1) and (2) above, which plan or combination of plans show the division of land into one or more new lots upon which single-family detached dwellings may be constructed pursuant to the provisions of Section (4) and (5) below.

DEVELOPMENT PHASE - a period of not less than one year beginning with the date of issuance of a building permit for the first dwelling eligible to be constructed within a particular development unit and ending on the date of issuance of the final occupancy permit for all but two of the dwellings within such development unit.

DEVELOPMENT UNIT - the total number of building permits and their respective occupancy permits that may be issued within one development phase as determined by a phasing schedule developed under § 9-I-(4) for each proposed development.

TRACT - a defined contiguous area of land comprised of one or more parcels or lots.

(3) Applicability

Beginning on the effective date of § 9-I of the Zoning By-Law, no building permit for new single-family residential construction shall be issued unless in accordance with the regulations contained herein. This section of the Zoning By-Law shall be in effect until December 31, 2005, at which time it shall automatically cease to be effective, unless otherwise extended for a longer period of time in accordance with applicable provisions of Massachusetts law.

This section of the Zoning By-law shall apply to all developments as defined in § 9-I-(2) above. For purposes of this section of the Zoning By-Law, adjacent or contiguous parcels of land which were under common ownership at the time of adoption of this by-law shall be considered as within a single tract of land.

(4) Procedures

The issuance of building permits for the construction of new single-family detached dwellings on lots within a development as defined in § 9-I-(2) above shall be in conformance with an approved development schedule as formulated under the procedures set forth hereunder.

- (a) Each development shall be evaluated in relation to the design criteria table in § 9-I-(5). Points assigned in each category of design criteria for which the applicant seeks credit are to be cumulatively totaled for each proposed development. The cumulative total of points shall then be correlated to the development phase table in § 9-I-(6) to establish the number of building permits that may be issued within each development phase by virtue of the proposed number of lots and the established rates of development within said table.
- (b) Said development schedule shall be approved, or modified and approved (including the imposition of reasonable conditions), by the Planning Board, and recorded at the Norfolk County Registry of Deeds and filed with the Town Clerk before any building permit can be issued for any lot within the proposed development. A proper notation referencing the approved development schedule shall be inscribed on a plan showing a development as defined in § 9-I(2) above.
- (c) Before approval of a development schedule, the applicability of each design criteria for which the applicant seeks credit shall be demonstrated to the reasonable satisfaction of the Planning Board.

- (d) If a proposed development schedule is modified and approved (including the imposition of reasonable conditions) by the Planning Board, findings and reasons therefor shall be given in a written decision, and said decision shall be filed with the Town Clerk, and a copy of said decision shall be sent by registered mail to the applicant. If the applicant wishes to rebut any of the findings and reasons for a modification of a proposed development schedule, a written notification of such rebuttal shall be filed by the applicant with the Town Clerk and Planning Board within ten (10) days of the filing of the Planning Board's decision. Within twenty (20) days of the filing of the Planning Board's decision, the Planning Board shall then respond to the specific rebuttals presented by the applicant. Failure of the Planning Board to respond to the rebuttal within said twenty (20) day period shall be deemed an approval of the development schedule as originally submitted.

(5) Design Criteria Table

The points established hereunder for each particular category of design criteria are absolute, shall be awarded in multiples of five (5), and, except for category (h) below, shall not be varied by the Planning Board in the approval of a development schedule,

NOTE: Points cannot be awarded for both Cluster Development {(a)} and Preservation of the Environment {(j) through (n)} criteria.

DESIGN CRITERIA	POINTS
a. All lots are located within an Open Space Residential Development approved in accordance with Section 11 of the Walpole Zoning Bylaw	10
b. The total number of proposed lots within the development is	
• 50% less than what can be reasonably expected under a maximum build-out of the tract	30
• 33% less than what can be reasonably expected under a maximum build-out of the tract	25
• 25% less than what can be reasonably expected under a maximum build-out of the tract	20
The maximum build-out of the tract shall be proven by the submission of a plan, showing a subdivision conforming to all applicable provisions of the Town of Walpole Zoning By-law, Subdivision Rules and Regulations, Wetland By-law, and Board of Health Regulations	
c. Exclusive of those lots counted under (b) above, the lot size of at least 75% of the lots within the development is equal to or exceeds 125% of the minimum required lot area for the zoning district in which the land is located, exclusive of land identified as a "Resource Area" as defined by M.G.L. c. 131 § 40, and/or the Town of Walpole Wetlands By-law	15
d. Exclusive of those lots counted under (a), (b), or (c) above, all lots within the development contain contiguous land other than that located within an area identified as a "Resource Area" as defined by M.G.L. c. 131 § 40, and/or the Town of Walpole Wetlands By-law, the area of which is at least 100% of the minimum required lot area for zoning compliance in which the land is located	10
e. The development dedicates land, acceptable to the Town, for a suitable site for a school, or land for other municipal purposes.	5 to 30 (discretionary)
f. The development provides land for active recreational use (for example, playing fields, tennis courts, neighborhood parks, playgrounds, or swimming facilities) in contiguous areas of at least	
• 4,000 square feet per lot	10
• 2,000 square feet per lot	5
g. The development permanently sets aside or preserves an area of at least five contiguous acres to be used for agricultural purposes	10 for each five acre area
DESIGN CRITERIA	POINTS
h. The applicant of the development is to provide other arrangements to mitigate the impacts of the development upon public facilities including (but not limited to) fire, police, education, public infrastructure, transportation, water conservation, and/or recreation.	5 to 20 (discretionary)
j. The development is designed so as to preserve, enhance, or provide desirable access to public or semi-public recreation lands, conservation lands, trail networks or open space.	5
k. The development provides a one hundred (100) foot buffer zone, including existing or planted vegetation, adjacent to any non-residential uses or zoning districts that in the opinion of the Planning Board provides a significant beneficial impact.	10
l. The development is designed so as to preserve land of significant historical, cultural, or archaeological value	10
m. The development is designed so as to preserve or enhance scenic roadside views or vistas from existing public ways	5

NEGATIVE IMPACT:

- n. The development is located on land that was enrolled under the provisions of M.G.L., c.61,-40 61A, or 61B, or was used in connection with an agricultural operation conducted by the Commonwealth of Massachusetts or any of its political subdivisions at any time prior to the filing of an application for definitive subdivision approval or endorsement that approval under the subdivision control law is not required.
- o. The development is located on land that was rezoned by private petition from a nonresidential district to a residential district or from a less intense residential district to a more intense residential district at the request of the owner or designee -100

(6) Development Phase Table

The numerical values hereunder established are absolute, and shall not be varied by the Planning Board in the approval of a development schedule. When correlating the proposed number of lots and cumulative points derived from the design criteria table to the rate of total lot build-out per development phase, all fractions of numbers shall be rounded to the nearest whole number to establish the number of building permits that may be issued in one development phase.

Cumulative Points Derived from Design Criteria Table												
# of Proposed Lots	-0	0	5	10	15	20	25	30	35	40	45	50+
Rate of Total Lot Build-Out Per Development Phase												
1 - 5	75%	85%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
6- 10	40%	50%	55%	60%	65%	70%	75%	80%	85%	90%	95%	100%
11 - 20	20%	27%	35%	43%	50%	58%	67%	74%	80%	87%	93%	100%
21-40	12%	17%	25%	33%	40%	48%	55%	62%	70%	78%	88%	100%
41+	8%	12%	20%	27%	35%	42%	50%	58%	66%	75%	87%	100%

(7) Protection From Zoning Changes

In the case of a development whose completion has been constrained by § 9-I of the Zoning By-Law of the Town of Walpole, the protection of the land area within said development from zoning changes as provided in M.G.L. c. 40A § 6 shall be extended to the minimum time for completion of the development allowed under § 9-I.

(8) Severability

The individual provisions of § 9-I are to be considered independently significant, and the invalidity of any provision of § 9-I shall not affect the validity of any other provision of the section.

(9) Planning Board Regulations

The Planning Board shall, insofar as practical under law, adopt regulations applicable to the implementation of § 9I.

9-J GROWTH MANAGEMENT BY-LAW

(1) Purposes

The purposes of the Growth Management By-law (the "By-law") are: (1) to preserve and promote the public health, safety, welfare, education and community character of the Town of Walpole (the "Town") by maintaining the growth of the Town at a manageable rate; and (2) to ensure adequate time exists for the Town to expand its resources to provide those services necessary to meet the educational, infrastructure and public safety needs of the residents. The Town's growth rate should not exceed its ability to provide adequate schools, roads, police and fire protection, and other municipal services necessary and appropriate to safeguard the health, welfare and safety of current and future residents.

(2) Definitions

1. Applicant - Individuals, partnerships, corporations, trusts and other legal entities, in which the applicant of record holds a legal or beneficial ownership of greater than one percent (1%).
2. Development - Lots which were at any time after the date of adoption of this growth management bylaw, part of contiguous property under common ownership (or in different ownerships each involving one or more of the same principals).

(3) Applicability

The By-law shall apply to all residential building permits for construction of new residential dwelling units submitted after the effective date of this By-law, except as expressly exempted in Section 6 herein. The By-law shall apply to all residential dwelling units whether they be single-family dwelling units or units in multifamily dwellings. The By-law shall be effective through December 31, 2001. The By-law may be extended for five years, to December 31, 2006, to achieve its purposes without lapse of its provisions, conditions and limitations by majority vote of a Town Meeting prior to December 31, 2001.

(4) New Building Permit Limitations

1. There shall be a limit on the issuance of building permits Town-wide so as to limit the construction of or conversion to residential dwelling units to 85 units per twelve-month period. It is recognized that under state law, certain subdivisions and lots will be grandfathered and will, therefore, not be subject to the 85 permit limit established by the Growth Management By-law. Building permits issued for such lots will nonetheless be counted toward the 85 permit limit, but 24 of the aforementioned 85 permits per twelve-month period shall be made available, at the rate of no more than 2 permits per month, to lots which are not grandfathered under M.G.L. c-40A, Section 6, from the provisions of this Growth Management By-law.
2. Building permits shall not be issued authorizing construction of or conversion to more than five (5) residential dwelling units (exclusive of permits withdrawn or expired without use) on Development or to any Applicant (or set of Applicants involving one or more of the same principals) in any twelve-month period unless the Planning Board has granted a special permit for rapid development. It is recognized that under state law, certain subdivisions and lots will be grandfathered and will, therefore, not be subject to the 5 permit limit established by Section 4.2.
3. Special permits for rapid development shall be granted only upon a determination by the Planning Board that in addition to the Special Permit criteria of Section 8-B, such development also would serve a significant housing need, would be unfeasible if limited to five (5) residential dwelling units over twelve months, and would not overburden public services.

(5) Procedures

The application procedures for obtaining such building permits referred to herein shall be as follows:

1. The Building Department ("Department") will accept applications for building permits on a first come, first served basis during normal business hours. The Applicant may not submit more building permit applications during any period than for that number of residential dwelling units to which the Applicant is entitled during such period in accordance with this By-law.
2. The Department shall not accept building permit applications for a greater number of residential dwelling units than may be permitted during any month in accordance with this By-law.
3. Building permit application packages that are deemed by the Building Inspector to be incomplete or are rejected for any reason will be returned to the Applicant. The Applicant may then file a new application for a building permit.
4. If a building permit application is accepted by the Department, a building permit may be issued at any time within thirty (30) days of such submission.

(6) Exemptions

The following developments are specifically exempt from this By-law and shall not count toward the Building Permit Limitations set forth in Section 4 herein:

1. Restoration, expansion, alteration, or reconstruction of a dwelling in existence as of the effective date of this By-law, provided that no additional residential unit is created.
2. Any dwelling unit to be built under any program or statute intended to assist in the construction of housing for low or moderate-income families, as defined in the applicable statute or regulation.
3. Any dwelling unit to be built under any program or statute intended to assist in the construction of housing for senior persons, as defined in the applicable statute or regulation.
4. Structures for non-residential purposes.

(7) Severability

The provisions of this By-law are hereby declared to be severable. If any provision or the application of any provision to any person or circumstance shall be held invalid or unconstitutional, it shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this By-law or the application of such provisions to any person or circumstance other than those as to which such provision is held to be invalid or unconstitutional, or take any action in relation thereto.